

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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E. MISHAN & SONS, INC., :
Plaintiff, : Civil Action No. 08CV4714 (JGK)(AJP)
ECF Case
v. :
MAX SALES, INC. and DR. LEONARD'S :
HEALTHCARE CORP., :
Defendants. :
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REPLY

Plaintiff, E. Mishan & Sons, Inc., by its attorneys hereby replies to the counterclaim in Defendant's Answer, Affirmative Defenses and Counterclaim of Dr. Leonard's Healthcare Corp. as follows:

1. States that the allegations contained in paragraph 1 of the counterclaim are conclusions of law to which no responsive pleading is required. To the extent a response is required, states that 28 U.S.C. §§ 2201, 2202 and 17 U.S.C. §101 *et seq.* speak for themselves.
2. Admits the allegations of paragraph 2 of the counterclaim.
3. Admits the allegations of paragraph 3 of the counterclaim.
4. Admits the allegations of paragraph 4 of the counterclaim.
5. Admits the allegations of paragraph 5 of the counterclaim.
6. Denies the allegations of paragraph 6 of the counterclaim.
7. Denies the allegations of paragraph 7 of the counterclaim.

AFFIRMATIVE DEFENSES

1. The counterclaim fails to state a claim upon which relief can be granted.

WHEREFORE, E. Mishan & Sons, Inc. prays for judgment against the Defendant/Counter-Claimant, Dr. Leonard's Healthcare Corp., as follows:

- A. A judgment dismissing the counterclaim against Plaintiff.
- B. That Defendant/Counter-Claimant be required to pay Plaintiff the full cost of this action, including reasonable attorney fees.
- C. That the Court order such other and further relief as the Court may deem just and proper.

Dated: June 17, 2008

s/

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